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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,459	12/14/2005	Gianfranco Bedetti	9526-72 (180732)	3020
30448	7590	04/05/2011		
AKERMAN SENTERFIT			EXAMINER	
P.O. BOX 3188			VETTER, ROBERT A	
WEST PALM BEACH, FL 33402-3188				
			ART UNIT	PAPER NUMBER
			1712	
			NOTIFICATION DATE	DELIVERY MODE
			04/05/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

Office Action Summary

Application No.

10/560,459

Applicant(s)

BEDETTI, GIANFRANCO

Examiner

ROBERT VETERE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-SB08)
Paper No(s)/Mail Date 6/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/17/10 has been entered.

Response to Arguments

2. Applicant's arguments filed 6/17/10 have been fully considered but they are not persuasive.

Applicant first argues that the embodiment of Bedetti described on page 9 excludes and is in contrast with the provision of a second fluid bed for cooling. This is not persuasive. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As acknowledged in the previous rejection, the passage on page 9 of Bedetti shows that cooling air is provided, not that a second fluid bed is utilized. Accordingly, Joscelyne is provided to overcome this deficiency.

Applicant further argues that there is no incentive for a person of ordinary skill in the art to modify this embodiment of Bedetti to improve cooling or maximize heat recovery because Bedetti is not faced with these problems. This is not persuasive. Bedetti teaches that cooling is needed at page 9:10-14. While Bedetti does not expressly state that a problem exists regarding heat recover, Joscelyne teaches that utilizing a second fluid bed for cooling ensures maximum heat recovery which would have allowed the system to be operated at a lower cost. An implicit motivation to combine exists not only when a suggestion may be gleaned from the prior art as a whole, but when the improvement is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient. MPEP § 2143(G).

Applicant also argues that Joscelyne is directed to a completely different if not opposite technical field because, in Joscelyne, the particles start off as liquid droplets and are solidified during the process. This is not persuasive. While Joscelyne is directed to a method of prilling, the teaching that a second fluid bed is used for cooling is directed to cooling the already solidified particles. Thus, Joscelyne is directed related to the method of Bedetti.

Furthermore, with respect to the newly amended limitation in claim 3 that that distributor device is for solid seeds, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the present combination, Bedetti teaches the introduction of solid particles, while Joscelyne teaches the remaining limitations discussed in claim 3. Furthermore, an apparatus must be distinguished from the prior art in terms of structure rather than function. In the present case, Joscelyne teaches that solid particles are formed within the apparatus, so the remaining structural components of Joscelyne necessarily are compatible with solid particles.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedetti (WO 02/074427) in light of Joscelyne (US 2,635,684).

Claims 1-2: Bedetti teaches a method of producing granules comprising the steps of: forming a fluid bed of solid seeds of a predetermined substance by continuously feeding the seeds into the bed (i.e. using a distributor device for solid seeds) (p. 5:6-13) at the same time as a growth liquid is introduced into the fluidized bed (6:3-14) in order to form granules of a desired size (see, e.g., Abst.). Bedetti further teaches that the particles are cooled with a cooling air flow (9:10-14), but fails to disclose that cooling

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occurs in a separate fluidized bed using the same air flow. Joscelyne teaches a method of operating a fluidized bed wherein granules are first formed and introduced into a first fluidized bed and then subsequently cascaded to be cooled in a separate fluidized bed positioned below the first (claimed "in series") (2:44-3:17; Fig. 1, 'F') (In this configuration, Joscelyne further teaches that the air is blown in trough D so that it first flows through the cooling bed and then through the granulation bed, Fig. 1). Joscelyne also explains that such a configuration allows the fluidized bed apparatus to be operated using a single gas stream and that, by doing so, the system can be operated at a lower cost by ensuring maximum heat recovery through the system (2:13-21). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a second cooling fluidized bed in the method of Bedetti in order to have used a single air stream which allows for lower costs of operation by maximizing heat recover in the system.

Claims 3-5: Joscelyne also teaches an apparatus for performing the method of claim 1 comprising a structure shaped like a container (B) with a granulation space inside of it (Fig. 1), including a shelf supporting a first fluidized bed which is permeable to air flow (E), a base plate below said shelf which supports a second fluidized bed (G), a vertical downcomer with the granulation space (F) and an air blower to distribute air with the space (D) wherein the downcomer comprises a vertical panel spaced away from a wall of the container with an interspace having a horizontal bottom space which allows passage of the particles and which is in communication at the top with the container (Fig. 1, F).

3. Claims 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Bedetti and Joscelyne in light of Mavrovic (US 3,836,611).

Claims 6: Joscelyne fails to teach that the second fluid bed is in communication with the outside, but does teach that the cooling air is introduced to the bed through an opening which is affixed to the base plate (D). Mavrovic teaches a fluidized bed apparatus where the cooling air is introduced through an opening in the wall of the container which is fixed to the base player which supports the second fluid bed (7, Fig. 1). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used an opening which was in contact with the outside to supply the cooling air in the method of Bedetti/Joscelyne with the predictable expectation of success because both Mavrovic

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and Joscelyne teach methods of cooling fluidized beds using air and further because the use of ambient air as a cooling medium would have reduced the costs associated with supplying cooling air to the fluidized bed in Joscelyne.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bedetti and Joscelyne and Mavrovic in light of Mason et al. (US 4,338,878).

Claim 7: Bedetti, Joscelyne and Mavrovic fail to expressly teach that the opening is able to slide vertically. However, Mason teaches a fluidized bed with an input/output opening (22, Fig. 1) wherein the opening can be a sliding opening (4:31-53). The selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a sliding opening as taught by Mason in the combined method of Bedetti, Joscelyne and Mavrovic with the predictable expectation of success.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT VETERE whose telephone number is (571)270-1864. The examiner can normally be reached on Mon-Fri 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Vetere/
Examiner, Art Unit 1712

/Michael Cleveland/
Supervisory Patent Examiner, Art Unit 1712